

76-6-408 Receiving stolen property -- Duties of pawnbrokers, secondhand businesses, and coin dealers.

- (1) A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding the property from the owner, knowing the property to be stolen, intending to deprive the owner of it.
- (2) The knowledge or belief required for Subsection (1) is presumed in the case of an actor who:
 - (a) is found in possession or control of other property stolen on a separate occasion;
 - (b) has received other stolen property within the year preceding the receiving offense charged;
 - (c) is a pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property and fails to require the seller or person delivering the property to:
 - (i) certify, in writing, that he has the legal rights to sell the property;
 - (ii) provide a legible print, preferably the right thumb, at the bottom of the certificate next to his signature; and
 - (iii) provide at least one positive form of identification; or
 - (d) is a coin dealer or an employee of the coin dealer as defined in Section 13-32a-102 who does not comply with the requirements of Section 13-32a-104.5.
- (3) Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee, or representative of a pawnbroker or person who fails to comply with the requirements of Subsection (2)(c) is presumed to have bought, received, or obtained the property knowing it to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.
- (4) When, in a prosecution under this section, it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee, or representative of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property without obtaining the information required in Subsection (2)(c) or (2)(d), then the burden shall be upon the defendant to show that the property bought, received, or obtained was not stolen.
- (5) Subsections (2)(c), (3), and (4) do not apply to scrap metal processors as defined in Section 76-6-1402.
- (6) As used in this section:
 - (a) "Dealer" means a person in the business of buying or selling goods.
 - (b) "Pawnbroker" means a person who:
 - (i) loans money on deposit of personal property, or deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledge or depositor;
 - (ii) loans or advances money on personal property by taking chattel mortgage security on the property and takes or receives the personal property into his possession and who sells the unredeemed pledges; or
 - (iii) receives personal property in exchange for money or in trade for other personal property.
 - (c) "Receives" means acquiring possession, control, or title or lending on the security of the property.

Amended by Chapter 187, 2013 General Session